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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/511,955	02/23/2000	Charlie Ghahremani	37072/JEC/X2	3897

35114 7590 01/05/2004

ALCATEL INTERNETWORKING SYSTEM, INC.
ALCATEL-INTELLECTUAL PROPERTY DEPARTMENT
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EXAMINER

FERRIS, DERRICK W

ART UNIT	PAPER NUMBER
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2663

DATE MAILED: 01/05/2004

17

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

Office Action Summary

Application No.

09/511,955

Applicant(s)

GHAHREMANI ET AL.

Examiner

Derrick W. Ferris

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5,6 and 9-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5,6 and 9-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____. 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/25/03 has been entered.

Response to Amendment

2. **Claims 1, 2, 5, 6, 9-14 and 15** as amended are still in consideration for this application. Applicant has added claim 15.

3. Examiner does **not withdraw** the obviousness rejection to *Chau et al.* ("Chau") for Office action filed 11/25/03. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., *the same media device can be reactivated by a subsequent communication that preferably triggers the GFI processing to reactivate the PIF module which in turn determines the layer two protocol to be used for the subsequent session based on the connection type with the GFI bindings on a session by session basis*) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). As such, the examiner assumes a reasonable but broad interpretation of the recited claimed subject matter. In particular, *Chau* teaches that logical ports and physical ports are dynamically allocated

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during system initialization (e.g., see column 9, lines 60-66). With respect to claim 15, see the new rejection below.

Claim Objections

4. Claim 10 is objected to because of the following informalities: claim 10, line 2 should probably recite a layer two protocol and not a “two protocol”. Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. **Claims 12 and 13** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it is unclear from claim 12 whether applicant is referring to a communication protocol recited at claim 11, line 3 or a different communication protocol recited at claim 11, line 7 (i.e., both communication protocols may not necessarily be a layer two protocol). In particular, it is unclear from claim 13 whether applicant is referring to a communication protocol recited at claim 11, line 3 or a different communication protocol recited at claim 11, line 6 (i.e., both communication protocols may not necessarily be a layer two protocol).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

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such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 1, 2, 5, 6, and 9-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,233,232 to *Chau et al.* ("*Chau*").

As to **claims 1, 5, 11 and 13**, *Chau* discloses general means for identifying a protocol, dynamically bonding the identified protocol, and adding encapsulation information. Specifically, *Chau* discloses a modular architecture for connecting a plurality of network access servers 100, 120, and 130 together over network 130. Examiner notes for this rejection a switch is a network access server. Shown in figure 4 is kernel 400 that comprises drivers at the physical layer which setup a connection with the data-link layer. Examiner specifically notes that a PPP connection is established over an Ethernet interface, T1 interface, or ISDN interface as shown in figure 4 of *Chau* and in relation to applicant's specification on page 44, lines 30-35 with respect to PPP being generally "bonded" to at least ISDN and T1. Examiner notes the general bonding is further illustrated in figures 6 and 7 of *Chau* with respect to setting or establishing a data connection path (i.e., a conventional data path) [columns 9-10]. In addition, examiner notes a broad but reasonable interpretation of a PIF object as defined by applicant in applicant's specification on page 3, lines 1-5. Thus taught specifically by the reference is that when a client dials into the network access server (i.e. switch) across one of the telephone lines, a physical port is bound to a logical port [column 9, lines 60-65]. Examiner notes that the routing engine 108, 112, and 128 is used to further route or forward the data block to a destination address.

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Examiner notes it may not be clear from the reference on a second protocol.

Examiner notes that it would have been obvious to someone skilled in the art prior to applicant's invention to select a second protocol. As motivation, *Chau* discloses selecting a layer two protocol when bonding a physical port to a logical port where the logical port information includes PPP and SLIP (see figure 4).

As to **claims 2 and 6**, *Chau* discloses using memory as shown in figure 3 to store the encapsulated information.

As to **claims 9, 10, 12, and 14**, PPP is a layer two protocol.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. **Claims 1, 2, 5, 6, 9-14 and 15** are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,550,816 to *Hardwick et al.* ("*Hardwick*") (Cited as prior art by applicant in paper #7).

As to **claim 1**, *Hardwick* discloses a method and apparatus for virtual switching.

In particular, figure 18 discloses a block diagram showing an example of a component hierarchy including three Virtual Routers (VRs) and multiple protocol stacks and protocol ports in accordance with the invention (e.g., see column 23, lines 49-59; column 31, line 50 – column 32, line 46). Specifically, a CAS linkage, from the Protocol Port (PP) to a Media Application component, is used to associate the logical PP to a physical

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media. A protocol is bound by making it active which occurs during registration (e.g., see columns 37-38). Thus *Hardwick* teaches bonding a protocol on a session-by-session basis.

As to **claim 2**, see e.g., column 37, lines 25-35 with respect to a cache manager.

As to **claim 5**, see similar reasoning for the rejection for claim 1.

As to **claim 6**, see similar reasoning for the rejection for claim 2.

As to **claims 9-10**, see rejection for claim 1.

As to **claim 11**, see similar reasoning for the rejection for claim 1.

As to **claim 12**, see similar reasoning for the rejection for claim 2.

As to **claim 13**, see similar reasoning for the rejection for claim 1.

As to **claim 14**, see similar reasoning for the rejection for claim 2.

As to **claim 15**, see the combined similar reasoning for the rejection for claims 1 and 2.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- US006330599B1 discloses dynamically bonding between a physical port and a network layer which also inherently teaches bonding at layer 2, e.g., see figure 1 and column 5.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick W. Ferris whose telephone number is (703) 305-4225.

The examiner can normally be reached on M-F 9 A.M. - 4:30 P.M. E.S.T.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on (703) 308-5340. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 305-3900.

Derrick W. Ferris
Examiner
Art Unit 2663


DWF


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600 11/21/04